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CONCORD, N.H.

Dec. 10

Mr. James J. Barry, Commissioner  
Department of Public Welfare  
State House Annex

Re: Effie Atherton, OAA Applicant

Dear Mr. Barry:

In response to your letter of November 24, 1953 and supplementing my letter of November 12, 1953, I advise as follows.

By statute settlement requires domicile for a period of five years. Before a domicile is acquired the following conditions must be met.

1. Residence
2. Intent to remain
3. For an indefinite period
4. With the intent to abandon old domicile
5. Not under compulsion or restraint.

It can be readily seen that a person confined involuntarily to the State Hospital would be unable to gain a domicile and hence a settlement at the place where the hospital is located. The patient would be unable to form the necessary intention to remain where the institution is or the intention to abandon the old domicile. Further, domicile could not be obtained where it is compulsory that the person remain in the hospital.

Since residence alone is not enough to gain a domicile the settlement of pending applicant, Effie Atherton, would not be changed and the place of settlement at the time of her entrance into the hospital would be legally liable.

Very truly yours,

Richard C. Duncan  
Assistant Attorney General

RCD:RM